HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 7590 of 2005

Dated: 25th August, 2005

Between:

Sri Sai Granites, rep.by its Working Partner Yelavarthi

Rajendra Prasad, S/o.Purushotham, R/o.Sai Nilayam, Opp.Adarsh Public School, Tenali, Guntur District.

..... PETITIONER

AND

1.The Govt. of Andhra Pradesh, rep.by its Secretary, Revenue

Department, A.P.,Secretariat, Hyderabad and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 7590 of 2005

ORDER:

This writ petition has been filed by Sri Sai Granites, represented by its working partner-Yelavarthi Rajendra Prasad with a prayer to issue a writ of Mandamus declaring the action of the Mandal Revenue Officer/5th respondent in issuing proceedings L.Dis.No.350/02 dated 26.06.2002 rejecting the No-objection certificate in favour of the petitioner-firm as illegal, arbitrary, *mala fide* and violative of principles of natural justice.

2. Yelavarthi Rajendra Prasad has given his sworn affidavit in support of the writ petition. The case of the petitioner as disclosed in the affidavit be summarized in brief:- The petitioner is a registered partnership-firm bearing registration No.44 of 2003. The petitioner made an application on 22.05.2002 to the Director of Mines and

Geology, through the Assistant Director of Mines and Geology, Ongole for grant of quarry lease for mining the Galaxy Granite. The Assistant Director of Mines and Geology directed the petitioner to submit proposed plan of action for dumping the waste material generated in quarrying operations, if the lease is granted, and mineral dues clearance certificate in Form-H. The application of the petitioner-firm was referred to Mandal Revenue Officer for report and inspection. Survey of proposed area was fixed on 05.06.2002. The Assistant Director of Mines and Geology vide his letter dated 28.06.2002 had recommended for rejection of mining lease of the petitioner on the ground that applied area has been entered in P.O.B. by District Collector, Ongole in 1988. Assailing the action of rejection, the petitioner-firm filed W.P.No.21912 of 2003. The said writ petition came to be allowed remanding the matter back to the Director of Mines and Geology. The relevant portion of the order passed in W.P.No.21912 of 2003 reads as follows:

> "Considering the submissions made on either side and also on perusal of the material, it is seen that the ground on which, lease was rejected is no longer subsists and this Court has already held that the said P.O.B. is not valid. Though writ appeal was filed and is pending, no stay was granted and therefore, there cannot be any impediment to rely on the said judgment in the above writ petitions.
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> In view of the same, the writ petition is allowed. Impugned orders are set aside and the matter is remitted to second respondent for fresh consideration, who shall dispose of the same after giving notice and opportunity to both sides, within four weeks from the date of receipt of a copy of this order."

In pursuance of the orders passed by this Court, the Assistant Director of Mines and Geology issued show-cause notice to the petitioner-firm. Thereupon the petitioner-firm submitted letter to the Director, Department of Mines and Geology, Government of Andhra Pradesh seeking 15 days time for submission of suitable reply. The text of the letter reads as follows:

> "With reference to your show-cause notice read above, we wish to state that our counsel Sri A.Ram Narayan expired and connected documents are with him and certain documents are filed in the Honourable Court. It will take some time to collect the documents from our late counsel and court. Further, our office has been shifted to the address given below and future correspondence may be made to this address.
>
> We, therefore, request you to grant us 15 days time for submission of

> suitable reply to your show-cause notice referred to above. In view of the reasons mentioned above, 15 days may be counted from today onwards."

Subsequently, the Director of Mines and Geology, Hyderabad issued proceedings No.33117/R3(2)/2003, dated 10.03.2005.

3. Respondents 2 and 3 filed one counter affidavit and Respondents 4, 5 and 6 filed another counter affidavit.

4. The details of the counter affidavits are not required to be elaborated in view of the order proposed to be passed.

5. Heard learned counsel appearing for the petitioner, learned Government Pleader for Revenue appearing for the respondents 1 to 6 and learned Standing Counsel appearing for the 7th respondent.

6. Learned counsel appearing for the petitioner submits that the petitioner could not submit its explanation to the show-cause notice before the Director of Mines and Minerals, Government of Andhra Pradesh, hyderabad/3rd repondent since the Advocate, who represented it died and the file relating to the case retained in the office of its Counsel.

7. The factual aspect that the counsel-A.Rama Narayana, who represented the case of the petitioner in earlier proceedings, died in November, 2004. Even in the review application filed in Review W.P.M.P.No.25904 of 2004 in W.P.No.21912 of 2003 the name of A.Rama Narayana has been shown in the cause list dated 17.02.2005. It indicates that the petitioner did not engage any other counsel after the death of A.Ramanarayana.

8. Such is the situation, I deem it appropriate to set aside the impugned order and remanded the matter back to the Director, Mines and Minerals, Government of

Andhra Pradesh, Hyderabad/3rd respondent for fresh disposal after giving opportunity to the petitioner. The petitioner shall submit its explanation to the show-cause notice within two weeks from today and thereafter the 3rd respondent has to proceed to pass orders in accordance with law.

9. Accordingly, the writ petition is allowed. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 25th August, 2005.

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